

Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

Ministry of Public Health

No: 297 /MOH
Vientiane Capital, date 24 February 2012

DECISION

ON FOOD INSPECTION

- Pursuant to Food Law No. 04/NA, dated 15 May 2004;
- Pursuant to Prime Minister Decree No. 114/PM, dated 04 July 2008 on the Organization and Operations of the Ministry of Public Health;
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2. **Inspector:** means a person officially appointed by the Minister of Public Health to act as a food inspector and whose has the prescribed qualifications for such appointment as set out in this Decision.
3. **Equivalence:** means the capability of different inspection and certification systems to meet the same objectives;
4. **Food:** means any substance which the human consumes and drinks in fresh, cooked, raw or processed form, except drugs;
5. **Food business:** means any activity operating in the manufacture, processing, preparation, handling, treatment, packaging, labeling, selling, serving, transport, import, export, distribution or food exhibition including food donations and charity events but excluding street vending;
6. **Food business operator:** means any person authorized to operate food business in accordance with laws and regulations of Lao PDR;
7. **Food safety:** means the assurance that food will not cause harm to the consumer when it is produced, prepared or eaten according to its intended use;
8. **Food safety system:** means an auditable mechanism or procedure employed within a food business to ensure its systematic implementation, so as to ensure food complying with the prescribed requirements under food safety legislation in Lao PDR;
9. **Adulterate:**

conduct risk assessment and risk management, consumers, industry, university or other interest parties including the explanation.

19. **Primary production:** means production of commodities or raw materials from the ground (soil) or water or marines, including commodities from raising, fishing or from forest. These commodities may be sold or used as raw materials for food preparation or manufacturing.
20. **Consignment:** means a quantity of goods imported at one time.

PART II

INSPECTION

Article 4: Risk analysis and risk assessment

The risk analysis shall be undertaken prior to deciding whether or not the Food and Drug Department (hereafter FDD) shall carry out an inspection, pay visits, take samples or carry out tests.

Risk assessment shall be based on scientific data most relevant to the context of Lao PDR and the FDD shall use quantitative information to the greatest extent possible and also take into account qualitative information, relevant production, storage and handling practices used throughout the food chain including traditional practices, methods of analysis, sampling and inspection and the prevalence of specific adverse health effects.

Constraints, uncertainties and assumptions having an impact on the risk assessment shall be considered and documented in a transparent manner.

Risk assessments shall be based on realistic exposure scenarios, with consideration of different situations including consideration of susceptible and high-risk population groups and also acute, chronic, cumulative or combined adverse health effects where relevant.

Article 5: Categorization of food risks

Foods are categorized based on risks into 3 categories: high, medium and low risk foods, as follows:

1. High-risk foods

High-risk foods are foods intended for high-risk group of consumers such as pre- school children, patients and elders, or specialized foods such as smoked, vacuum packed, canned, infant formulations and any foods processed for extended shelf life and ready to consume, dairy products, shell fish, raw eggs in food, foods for hospitals, all foods with high moisture and with high protein which needs temperature control system.

2. Medium-risk foods

Medium-risk foods are foods from processing facility, full service restaurants, extensive menu, handling of raw ingredients, complex preparations including cooking, cooling, reheating for hot holding, but not for long, involves many hazardous foods such as: foods ready to eat or heat and serve, raw chicken and meat to be cooked before consumption, all frozen fishery products, meat, low acid processed products, juices etc, with active management control through history of documentation that the food borne disease risk factors are under control.

3. Low-risk food

Low-risk food are foods from retail food stores, prepackaged foods, not served to susceptible population, quick service operation, limited menu, prepared, cooked and served immediately, no cooling, hot holding for short time, all commercially processed foods, raw material holding for preparation, warehouses used for storage of dried prepackaged or processed foods, processing facilities and foods with proven history through records that the food borne disease risk factors are minimum and can be controlled in subsequent process.

Examples of low-risk foods are: all dried prepackaged foods, dried cereals and pulses, sugar and sugar products, oils and fats, pickles , jam, jellies and other salted and dried products, nuts with the exception of peanuts (Aflatoxin).

The Ministry of Public Health shall determine and disseminate by appropriate means, a List of High, Medium and Low risk Foods, taking into account the factors listed in Article 4 of this Decision and the risks occurring in countries of origin or in domestic production, any disease out-breaks and any advice received from the Ministry of Agriculture and Forestry, the Codex Alimentarius Commission, the World Organization for Animal Health, the Food and Agriculture Organization and any other international organization with a mandate in food safety.

Article 6 – Nature and Frequency of inspections

The nature and frequency of inspection shall be based on the risk to human health and safety presented by the food and shall be proportionate to the level of risk attributed to it. In deciding how frequently to carry out inspections, the Food and Drug Department shall take into account all relevant factors, including but not limited to:

1. the risk to human health posed by the product or its packaging;
- 2.

risk food; and one in every fifteen consignments for the low-risk food will be inspected.

Where there is no certificate of health or where the consignment is accompanied with an invalid certificate of health, each consignment shall be subject to inspection for high-risk food; one in every three consignments for the medium-risk food; and one in every ten consignments for the low-risk food will be inspected.

If at any time a consignment is found not to be in compliance with an applicable standard, the subsequent consignments shall be inspected: until five consecutive inspections for high-risk food, four consecutive inspections for medium-risk food, and three consecutive inspections for low-risk food, show no violation of standards.

For imports of foods manufactured or produced under GMP or GHP and are HACCP certified, one in every ten consignments for high-risk food, one in every fifteen consignments for medium-risk food and one in every twenty consignments shall be randomly inspected.

The frequency of inspection may be reduced if the importer has a good record of compliance with the requirements.

The importers of food shall be registered with the FDD in accordance with the separate food registration regulation.

2. For domestic production:

Domestic food businesses shall be approved by the Ministry of Public Health prior to operating food business which shall follow the HACCP system supporting the use of GHP and GMPs. For food business involving in high-risk, medium-risk and low-risk food shall be subject to inspections once every three months, once every six months and once every twelve months, respectively. However, the inspection can become more frequent if there are any complaints from the public, if there is repeated non-compliance or if ineffective corrective actions are taken.

The Ministry of Public Health shall divide and list in an Annex food businesses that have high, medium and low risk, in order to determine frequency of inspections that take into account the varied health needs and susceptibility to food-borne diseases, of certain consumers.

Article 8. Emergency actions

During food-borne disease outbreaks or food safety emergencies, the Ministry of Public Health may authorize:

1. more frequent inspection of food businesses in the country;
2. the inspection of every import consignment of the food in question;

Article 9. Street food inspections

The Ministry of Public Health shall establish separate Regulations for the food inspection and control of street vendor.

Article 10. Targets of inspections

Inspections carried out by food inspectors may cover the following:

1. food businesses and their surroundings, any vehicles used for transportation and any equipments and materials used in connection with the production, manufacturing, treatment, grading, packing, packaging, labelling, storage, handling, preparing, serving or sale of any food;
2. food, food ingredients, additives, disinfectants and any substances, processes or methodologies used in the production, manufacturing, handling or marketing of food;
3. persons employed at the food business, including personal cleanliness and clothing;
4. packaging materials of foods and food consignments;
5. cleaning, disinfecting and maintenance at the food business;
6. labeling of foods; and
7. any documentation related to the food business.

PART III

RIGHTS AND DUTIES OF FOOD INSPECTOR

Article 11. Appointment of inspectors

The Minister of Public Health shall appoint a person who is knowledgeable, capable and qualified in the field of food sciences, pharmaceuticals, chemistry, biology and who has passed the prescribed examination for food inspectors in Lao PDR, as a food inspector.

Article 12. Rights, duties and responsibilities of food inspectors

1. Except for a dwelling place, a food inspector has the rights to enter, monitor and inspect the place of food businesses or other premises where there is the manufacturing, processing, treatment, grading, packing, labeling, storing, handling, selling, cooking catering or serving of food;
2. A food inspector must show his or her identification to the owner or person in charge of the food business before undertaking the inspection;

3. In accordance with the Manual of Inspection, a food inspector may:
 - 3.1 inspect or search a food business, and examine any food, object or substance used in connection with the used in connection with the production, manufacture, treatment, grading, packing, packaging, labeling, storage, handling, preparing, serving or sale of any food;
 - 3.2 examine, make copies or take extracts of any documents including any license issued to the food business and require the owner or person in charge of the food business to provide any information related to the food business;
 - 3.3 measure, mark, count, open and take samples of food, object or substance or its package or container, or clos

- communicate the need for control of the risk factors to ensure safety of the product and protection of public health.

Article 14. Inspection report, written notices and receipts

Following an inspection or control, a food inspector shall prepare a written inspection report containing such information as shall be prescribed in the Manual of Inspections, including the strengths, weaknesses, issues remaining to be addressed and recommendations. Three certified copies shall be made of the report, one to be kept by the inspector, one to be provided to the food business operator and one to be submitted to the Director of the FDD.

Where food inspector has reasonable grounds for believing that a food business operator or person in charge has failed to comply with the Food Law or this Decision, he or she may serve a written notice the food business operator or person in charge:

1. stating the grounds for believing that the Food Law or Decision is not being complied with;
2. specifying the measures which the food inspector deems that the food business operator or person in charge shall take in order to remedy the failures referred to in paragraph (1);
3. requiring the food business operator or person in charge to implement those measures, or measures which are at least equivalent to them, within the time period specified in the written notice.

Where no person is in actual occupation of any premise, or where the occupier or person in charge cannot be present, service of any notice under this Decision shall be made by affixing the notice to a conspicuous place in the premise, and such affixing shall be considered as good service of the notice.

Food inspectors shall keep records of all written notices, receipts issued and reports drafted.

Article 15. Training of food inspectors

A food inspector involved in the inspection, monitoring and verification or audit of food safety and hygiene shall receive periodic trainings by the Ministry of Public Health.

Training for food inspectors shall include, but not be limited to:

1. different control techniques, such as inspection, at different stages of the food chain, sampling, assessing non-compliance, verification and sample examination;
2. food legislations;
3. hazards in food production;
4. evaluation of HACCP and hygiene programs;
5. evaluation of quality management systems;
6. implementing official certification systems;
7. initiating legal proceedings for offences under the law;
8. examination of written documentation and records (review documents); and
9. regulating and inspecting traceability schemes.

Article 16. Official laboratory

The Ministry of Public Health shall designate any laboratory in Lao PDR or abroad as an

1. cooperate in all the activities of the food inspector to facilitate the inspection;
2. provide relevant information or documents as requested by the food inspector;
3. allow the food inspector to take samples and gather evidence including taking photographs or videos;
4. be liable for any action in contravention of the Food Law such as expired, unlabelled, unidentified or misbranded food, including unhygienic storage of food and or other input materials; and
5. bear all expenses related to testing and destruction or disposal of the products.

Article 21. Food or food businesses in compliance with food legislations after inspections

Following an inspection, where a food item or a food business complies with the requirements of the Food Law or this Decision, the food inspector shall issue a report to this effect, making any recommendations for better practices and improvement if necessary.

Article 22. Food inappropriate for consumption

Where a food inspector has reasonable grounds for believing that any food is inappropriate for human consumption or with potential for food borne disease risk factors or is likely to cause harm or danger to human health, or that any food is labeled, marked or otherwise presented in such a manner as to deceive or defraud consumers, or that the food fails to comply with the Food Law or this Decision, the food inspector shall:

1. provide a report in writing stating the grounds for such conclusion and provide the food business operator or person in charge of the food item with a written notice to

The approved premises for the specific purpose of food business shall not be used for other purposes.

Part V INSPECTIONS OF FOOD IMPORTS

Article 24. Risk assessment for imports

The imported food inspection requirements established by the Minister shall be based on risk assessment. The level of risk assigned to a food by the Minister should be reviewed periodically to take into consideration new information.

The FDD shall ensure that the imported food inspection requirements are publicly available and regularly updated in accordance with scientific data.

In determining the level of risk for an imported food item, the FDD shall assess the food safety risk to human health based on available scientific information, including but not limited to:

1. the scientific determination of the food safety risk;
2. the adequacy of processing controls in place in the exporting;
3. the compliance history of the food, irrespective of the source;
4. the compliance history of the food with respect to the source of the food including the compliance history of the exporting country, the producer and manufacturer, the exporter, the shipper and the importer; and
5. reports from officially recognized inspection or certification bodies.

Article 25. Inspection procedures and requirements for imported food

PART VII
MISCELLANEOUS PROVISIONS

Article 36. Appeals

Where a person or legal entity is aggrieved by a decision of an inspector, he or she has the right to file an administrative appeal to the Director of the FDD, stating the grounds for the claim. The Director shall submit his or her decision regarding the claim within thirty days of receipt of the appeal. Where the person is still not satisfied, he or she may appeal an administrative appeal to the Minister within forty-five days of receipt of the Director General's